

**Before the
Federal Communications Commission
Washington, DC 20554**

In re	)	
	)	
DELETE, DELETE, DELETE	)	GN Docket No. 25-133
	)	
To: The Commission		

**COMMENTS OF WISPA –
*THE ASSOCIATION FOR BROADBAND WITHOUT BOUNDARIES***

April 11, 2025

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Summary

In its Comments, WISPA – *The Association for Broadband Without Boundaries* (“WISPA”) offers a number of recommendations on how the Commission can take action to delete burdensome, unnecessary and outdated rules that hinder broadband investment, innovation and deployment.

- **Broadband Data Collection** – The Commission should extend the waiver of the licensed professional engineer certification requirement while it considers codifying the waiver in its rules.
- **Broadband Consumer Label** – The Commission should make a few targeted changes to its rules to eliminate unnecessary and burdensome obligations, and terminate the ongoing further notice of proposed rulemaking proceeding.
- **Disability Access Recordkeeping and Certification** – The Commission should delete rules requiring equipment manufacturers and service providers to submit annual certifications of their disability records.
- **Digital Discrimination – Disparate Treatment** – If the disparate impact rules of the November 2023 *Digital Discrimination Order* are upheld or remanded on appeal, the Commission should take action to eliminate the disparate impact portions of its Part 16 rules.
- **Data Breach Notification** – If the Commission’s December 2023 *Data Breach Order* is upheld or remanded, the Commission should take action to eliminate the Part 64 rules adopted in that order.
- **Cybersecurity and Supply Chain Risk Management** – The Commission should either rescind the January 2025 Declaratory Ruling or move immediately to grant the petition for reconsideration of that Declaratory Ruling. The Commission also should re-evaluate whether the Notice of Proposed Rulemaking seeks to achieve the goal of ensuring that cybersecurity threats are properly mitigated through coordination among broadband providers and the intelligence community.
- **Designated Entity Reporting** – As proposed in the past, the Commission should take action to eliminate the annual reporting requirement for designated entities.
- **Secondary Markets** – The Commission should amend its rules to streamline and simplify its secondary markets rules by allowing, in most instances, leasing arrangements to be effective upon notification to the Commission.

- **Part 15** – WISPA recommends that the Commission eliminate a few Part 15 rules, including rules governing broadband over power lines.
- **Part 80** – Rules requiring AMTS licensees to coordinate with television stations is no longer necessary in light of the transition to digital television.
- **Part 101** – The Commission should delete tariff language from two Part 101 rules.
- **Bulk Billing** – If the Commission decides to entertain a ban on the bulk billing issue in the future, it should consider the positive impact bulk billing arrangements can have on consumers, providers and broadband competition in certain circumstances.

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WISPA – *The Association for Broadband Without Boundaries* (“WISPA”) hereby submits its Comments in response to the Commission’s *Public Notice* seeking public input on Commission rules that create unnecessary regulatory burdens.¹ As a national trade association representing hundreds of smaller broadband internet service providers that serve millions of consumers, first responders and enterprises, WISPA is well aware that “unnecessary rules may stand in the way of deployment, expansion, competition, and technological innovation in communications that the Commission is directed to advance,”² and therefore appreciates the Commission’s solicitation of public comment.

In the Comments that follow, WISPA offers a number of suggestions for rules that the Commission can consider for deletion, either through rulemaking or other means.

Compliance Obligations

Broadband Data Collection

In 2022, at the request of broadband industry associations including WISPA, Commission Bureaus conditionally waived the licensed professional engineering certification

¹ *In re: Delete, Delete, Delete*, Public Notice, GN Docket No. 25-133, DA 25-219 (rel. March 12, 2025) (“*Public Notice*”).

² *Id.* at 1-2.

requirements of Section 1.7004(d) of the Commission’s Rules.³ In 2023, the Bureaus extended the waiver for three additional Broadband Data Collection (“BDC”) filing periods.⁴ The waiver expired with the December 31, 2024 “as-of” filing date. Unless the waiver is extended or the Commission amends Section 1.7004(d), broadband providers will be required to retain the services of a licensed professional engineer beginning with the June 30, 2025 “as-of” filing date.

The Bureaus should, on delegated authority, extend the waiver *sua sponte* to provide an immediate and ongoing solution. The *2022 Waiver* and the *2023 Waiver* both found “special circumstances” warranting a deviation from the general rule, citing comments from a number of parties that there is a shortage of licensed professional engineers. Further, the Bureaus observed that “the PE certification requirement does not exist in a vacuum, and other processes inherent in the BDC improve the accuracy of the broadband availability data shown on the National Broadband Map.”⁵ As another basis for waiver, the Bureaus stated that waiver “will help ensure that providers submit their BDC filings on time because it will allow them to use their current broadband network design and RF engineering staff to review and certify their submissions.”⁶ WISPA does not believe that circumstances have changed, and therefore an extension of the existing waiver would be appropriate while the Commission considers codifying the waiver.

³ *Establishing the Digital Opportunity Data Collection; Competitive Carriers Association Petition for Declaratory Ruling or Limited Waiver Regarding the Requirement for a Certified Professional Engineer to Certify Broadband Data Collection Maps*, WC Docket No. 19-195, Declaratory Ruling and Limited Waiver, 37 FCC Rcd 7836 (WCB/OEA/WTB 2022) (“2022 Waiver”).

⁴ *Establishing the Digital Opportunity Data Collection; Competitive Carriers Association and USTelecom – The Broadband Association Petition for Extension of Waiver Regarding the Requirement for a Certified Professional Engineer to Certify Broadband Data Collection Maps*, WC Docket No. 19-195, Order, 38 FCC Rcd 11075 (WCB/OEA/WTB 2023) (“2023 Waiver”).

⁵ *Id.* at 11082, ¶ 14.

⁶ *Id.* at 11083, ¶ 16

Broadband Consumer Label

The Commission should take affirmative action to end the current rulemaking proceeding to ensure that the Commission cannot, at some point in the future, seek to adopt any of the rules proposed or considered in the record for the Further Notice of Proposed Rulemaking.⁷ As WISPA and other commenters pointed out, the rules the Commission adopted in 2022 for the broadband consumer label are – with a few exceptions discussed below – well balanced and adequate to allow consumers to comparison-shop for broadband service.⁸

Deleting requirements from the broadband consumer label will necessarily impose costs on broadband providers to modify their broadband labels, so WISPA does not support any mandatory changes to the label itself. However, the Commission should take steps to delete two requirements. First, the Commission should allow broadband providers to display their broadband consumer labels via an icon or link on the provider’s home page, not as a web page itself.⁹ Links displayed on a web site are accessible to consumers, perhaps even more so than on a separate page where the provider maintains its marketing materials. For the provider, the time and cost of reconfiguring a web page may deter innovation if the provider would prefer to avoid making changes to its web site. Second, the Commission should not require the provider to “orally provide[e] information for the label to the consumer over the phone.”¹⁰ Consumers should not be required to listen to a sales representative read a label that is accessible through

⁷ *Empowering Broadband Consumers Through Transparency*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, 37 FCC Rcd 13686 (2022) (“*Broadband Label Order*”).

⁸ See Joint Comments of NTCA – The Rural Broadband Association and WISPA, CG Docket No. 22-2 (filed March 9, 2022); Joint Reply Comments of NTCA – The Rural Broadband Association and WISPA, CG Docket No. 22-2 (filed March 24, 2022).

⁹ *Broadband Label Order* at 13713-14, ¶¶ 90-92.

¹⁰ *Id.* at 13714, ¶ 95. See also *id.* at n.214 (“In such circumstances, the provider must read the entire label to the consumer over the phone.”).

other means and will waste time for both the consumer and the sales representative without any distinct and meaningful benefit. The Commission should re-define “point of sale” in Section 8.1(a)(2) so as not to include phone calls with prospective subscribers.

Disability Access Recordkeeping and Certification

Sections 255, 716 and 718 of the Communications Act require service providers and equipment manufacturers to make certain equipment and services accessible to persons with disabilities. Those statutory provisions do not, however, mandate that the Commission require covered manufacturers and service providers to maintain records or submit an annual compliance certification.¹¹ These requirements create recordkeeping burdens and compliance obligations that are unnecessary mandates, especially on smaller providers. The Commission should initiate a rulemaking proceeding proposing to eliminate these requirements.¹²

Digital Discrimination – Disparate Treatment

The Commission’s 2023 decision adopting digital discrimination rules,¹³ with then-Commissioner Carr and Commissioner Simington dissenting, is the subject of petitions for review before the Eighth Circuit Court of Appeals.¹⁴ Petitioners before the court of appeals, including WISPA, have argued that the Commission exceeded its authority in adopting rules imposing liability on broadband internet access service providers that adopt, implement or utilize

¹¹ See 47 C.F.R. § 14.31(a), (b) and (c).

¹² As a best practice, manufacturers and service providers may desire to keep records in the event they are the subject of a complaint or an enforcement action.

¹³ *Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination*, Report and Order and Further Notice of Proposed Rulemaking, GN Docket No. 22-69, 38 FCC Rcd 11440 (2023) (“*Digital Discrimination Order*”).

¹⁴ *Minnesota Telecom Alliance v. FCC*, No. 24-1179 (8th Cir.).

a policy or practice that has a discriminatory effect.¹⁵ If the *Digital Discrimination Order* is upheld or remanded, the Commission should take action to eliminate the disparate impact portions of its Part 16 rules. In addition, and irrespective of the Eighth Circuit’s decision, the Commission should terminate the Further Notice of Proposed Rulemaking without adopting any additional rules.

Data Breach Notification

In 2023, over the dissents of then-Commissioner Carr and Commissioner Simington, the Commission amended its data breach notification rules.¹⁶ Among other things, the new rules expand the scope of the rules to cover all personally identifiable information and include both intentional and inadvertent breaches. The Sixth Circuit Court of Appeals is considering petitions for review challenging the Commission’s authority to adopt the new rules in light of the 2017 joint resolution of disapproval under the Congressional Review Act that set aside substantially similar rules the Commission adopted in 2016. Although the rules adopted in 2023 are not effective, they would greatly expand the regulatory burdens on broadband providers. If the *Data Breach Order* is upheld or remanded, the Commission should take action to eliminate the Part 64 rules adopted in that order.

Cybersecurity and Supply Chain Risk Management

On January 16, 2025, with then-Commissioner Carr and Commissioner Simington dissenting, the Commission adopted a Declaratory Ruling “clarify[ing] that telecommunications carriers’ duties under section 105 of CALEA extend not only to the equipment they choose to

¹⁵ See 47 C.F.R. § 16.4(b) (stating that “[a] discriminatory effect occurs when a facially neutral policy or practice differentially impacts consumers’ access to covered services or covered elements of service.”).

¹⁶ *Data Breach Reporting Requirements*, Report and Order, WC Docket No. 22-21, 38 FCC Rcd 12523 (2023) (“*Data Breach Order*”).

use in their networks, but also to how they manage their networks.”¹⁷ The Declaratory Ruling further “conclude[d] that section 105 of CALEA independently obligates telecommunications carriers to prevent all incidents of unauthorized interception of communications and access to call-identifying information, not merely those carried out by law enforcement.”¹⁸ In his public posting, then-Commissioner Carr acknowledged the burdens being placed on broadband providers, stating that “[t]he FCC’s decision does not address the severity of the threat effectively. Instead of focusing on actionable steps in partnership with the intelligence community and network providers, this vote imposes undefined cybersecurity obligations that overreach the FCC’s statutory authority.”¹⁹ Industry associations are seeking reconsideration of the Declaratory Ruling, pointing out that, in addition to the unfunded and vague mandate placed on broadband providers, the Declaratory Ruling “ignores the textual limitation in Section 105—that a provider must effectuate lawful interception “within its switching premises.””²⁰

In light of the deep concerns expressed over the Declaratory Ruling, the Commission should either rescind it or move immediately to grant the petition for reconsideration. In addition, the Commission should re-evaluate whether the Notice of Proposed Rulemaking seeks to achieve the goal of ensuring that cybersecurity threats are properly mitigated through coordination among broadband providers and the intelligence community, rather than through

¹⁷ *Protecting the Nation’s Communications Systems from Cybersecurity Threats*, Declaratory Ruling and Notice of Proposed Rulemaking, PS Docket No. 22-329, FCC 25-9 (rel. Jan. 16, 2025) at 8, ¶ 11 (citation omitted).

¹⁸ *Id.* at 9, ¶ 13.

¹⁹ @BrendanCarrFCC, X.com (Jan. 15, 2025, 6:39 PM), <https://x.com/BrendanCarrFCC/status/1879674875973165368>.

²⁰ Petition for Reconsideration of CTIA – The Wireless Association, NCTA – The Internet & Television Association, and USTelecom – The Broadband Association, PS Docket No. 22-329 (filed Feb. 18, 2025), at 7.

burdens placed on providers, especially smaller ones that may be ill-equipped or under-resourced to manage cybersecurity risk effectively.

Designated Entity Reporting

WISPA also recommends that the Commission eliminate Section 1.2110(n) of its rules requiring designated entities to file an annual report with the Commission for each license the entity holds that was acquired using designated entity benefits.²¹ In 2015, the Commission had proposed to repeal the annual designated entity reporting requirement.²² The Commission stated that the “information DEs are required to include in their annual reports is duplicative of information that they provide in their auction and license applications. In addition, before entering into leases or other agreements that might affect their eligibility, DEs must seek Commission approval and must list and summarize those agreements, including the parties to and the dates of the agreements.”²³ The Commission tentatively concluded “that the value of the information provided in these reports may no longer outweigh the reporting burden they impose on DEs.”²⁴

The Commission decided to retain a modified version of the designated entity reporting requirement that was intended to eliminate the reporting redundancies and reduce the administrative burdens that the annual reporting requirement imposed on small businesses and rural service providers.²⁵ The Commission was correct when it initially proposed to delete the

²¹ 47 C.F.R. § 1.2110(h).

²² *Updating Part 1 Competitive Bidding Rules*, Notice of Proposed Rulemaking, 29 FCC Rcd 12426, 12453-54, ¶¶ 77-79 (2014) (citations omitted).

²³ *Id.* at 12453, ¶ 78.

²⁴ *Id.*

²⁵ *Updating Part 1 Competitive Bidding Rules*, WT Docket No. 14-170, Report and Order; Order on Reconsideration of the First Report and Order; Third Order on Reconsideration of the Second Report and Order; Third Report and Order, 30 FCC Rcd 7493, 7561-63, ¶¶ 160-167 (2015).

designated entity reporting requirement because the benefits did not outweigh the costs. The designated entity report, as modified, has not proven necessary to advance Commission policy in the manner as originally anticipated and the costs of the reporting requirement have continued to outweigh the benefits. WISPA notes that the Commission has repeatedly granted waivers for late-filed designated entity reports, which demonstrates that the rule is unnecessary and has outlived its usefulness. The designated entity reporting rule is not needed to ensure compliance with the designated entity rules. Designated entities will remain subject to audits and will remain obligated to provide the Commission with the relevant information in their initial and subsequent applications, to maintain and make available to the Commission all agreements relating to their designated entity status, and to seek Commission approval for all reportable eligibility events.²⁶

Secondary Markets

Over twenty years ago, the Commission adopted a comprehensive set of spectrum leasing rules and implemented two different options for spectrum leasing – (1) *de facto* transfer leasing arrangements, in which the lessee is primarily responsible for ensuring that its operations comply with the Communications Act and Commission policies and rules, and (2) spectrum manager leasing arrangements, in which the licensee retains *de facto* control of the licensed spectrum.²⁷

²⁶ 47 C.F.R. §§ 1.2110(j), 1.2110(m), 1.2112(b), and 1.2114.

²⁷ *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Deployment of Secondary Markets*, WT Docket No. 00-230, Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 20604 (2003) (“*Secondary Markets Report and Order*”). See Subpart X of Part 1 of the FCC’s rules, 47 C.F.R. §§ 1.9001–1.9080.

The Commission stated that it “sought to ensure that spectrum is put to its highest valued use, which generally can be most efficiently determined by operation of market forces.”²⁸

The Commission can eliminate unnecessary regulatory barriers that hinder ready access to spectrum by simplifying and streamlining its spectrum leasing policies and rules.²⁹ WISPA recommends that the Commission replace the two existing spectrum leasing options with a single process. While WISPA appreciates the Commission’s intent to provide greater flexibility, the additional effort and expense associated with the current processes for *de facto* spectrum transfer leases demonstrate that they are no longer warranted. The current spectrum leasing rules require navigating the different regulatory requirements and application processing procedures. For *de facto* spectrum leases, applicants must file a formal application that can take weeks for Commission staff to process. While large companies may be better suited to absorb the costs, the regulations serve as a barrier to entry for some of WISPA’s members.

A single spectrum leasing option will provide a simplified, streamlined process, reduce regulatory confusion as to which process may apply to any given transaction, and lead to significant savings for licensees and spectrum lessees, while continuing to ensure compliance with the Commission’s rules and public interest objectives. The costs imposed by the current rules exceed the benefits such that, with some exceptions, a single spectrum leasing method effective upon notification to the Commission would result in greater benefits relative to the costs and processing time involved with the current scheme. The experience gained by WISPA’s members demonstrates that the two different spectrum leasing options are unnecessary.

²⁸ *Secondary Markets Report and Order*, 18 FCC Rcd at 20609, ¶ 7.

²⁹ WISPA does not recommend any changes to the “light touch” leasing rules for the Citizens Broadband Radio Service (“CBRS”) in 47 C.F.R. § 1.9046 or the Enhanced Competition Incentive Program under Subpart E of Part 1 of the FCC’s rules.

WISPA proposes that under a single, spectrum leasing option, the Commission should allow the spectrum leasing arrangement specified in the application to become effective upon notification to the Commission unless the spectrum lease raises any “red flags” that would typically, in the license context, remove an application from immediate application processing (“IAP”) (*e.g.*, waivers, red light, unjust enrichment disclosure of felony convictions, etc.). Any leasing arrangement that does not raise red flags should become effective immediately upon processing of the application in ULS the next business day.

WISPA also recommends that the Commission delete Section 1.9080 of its rules regarding private commons arrangements.³⁰ To WISPA’s knowledge, its members have not entered into any such private commons arrangements. The rule has not proven to produce the expected benefits or advance Commission policy objectives to the degree originally anticipated. The private commons rule has outlived its usefulness and there is no longer any need for this regulation.

Part 15

WISPA recommends that the Commission initiate one or more rulemaking proceedings that delete or modify the following Part 15 rules:

Section 15.203 was intended to keep Part 15 intentional radiators from using antennas of a type not approved in conjunction with the device; *i.e.*, antennas with high enough gain that they would exceed EIRP limits even when the device remained within conducted power limits. But the rule as written contains its own undoing: “the use of a standard antenna jack or electrical connector is prohibited” simply led to the widespread use of the RP-SMA plug and jack, which is “non-standard,” rather than the standard SMA, BNC, etc. RP-SMA is thus a *de facto* standard,

³⁰ 47 C.F.R. § 1.9080.

yet harmful interference from the use of external antennas using RP-SMA connectors has rarely if ever been noted. Hence, this rule is rather meaningless in practice.

Access Broadband over Power Lines (“BPL”) was proposed in the 1990s as an alternative to dial-up Internet access and later as a potential competitor to cable modems. But it had several fatal flaws. One is that it was limited in speed; it does not meet today’s definition of “broadband.” Another is that it required bypassing transformers, which proved uneconomical. Another is that it produced significant interference to HF band users. Thus, there are no known Access BPL systems in use or being manufactured. Subpart G of Part 15 is thus obsolete and should be deleted.

Part 80

WISPA recommends that the Commission initiate a rulemaking proceeding to delete or modify Sections 80.215(a)(2)-(3) and 80.475(a)(1), which require licensees of Automated Maritime Telecommunications Systems (“AMTS”) frequencies to submit detailed engineering studies and interference mitigation plans for any base stations that they propose to locate within 169 km (105 miles) from the antenna of a channel 13 TV station or within 129 km (80 miles) of the antenna of a channel 10 TV station. The preparation and submission of these engineering studies and mitigation plans imposes a significant cost and burden on AMTS licensees seeking to operate these frequencies in the public interest. However, the potential for interference to TV reception that these requirements were intended to address has largely been rendered moot by the completion of the digital TV transition nearly two decades ago, and thus these requirements are no longer necessary. To the extent there may still be some concern over the potential for interference to the reception of TV signals, these concerns would be sufficiently addressed by the Commission’s separate rules requiring AMTS licensees to provide notice of base station

operations to potentially affected channel 10 and 13 TV stations and to affirmatively eliminate any interference that is reported.

Part 101

WISPA proposes that two Part 101 rules be amended to delete outdated language that would appear to require tariffs. First, Section 101.137 regarding the interconnection of private operational fixed point-to-point microwave stations should be amended to delete the phrase “subject to applicable tariffs.” Second, Section 101.703 regarding permissible communications should be amended to replace “for in the legally applicable tariffs of” with “by” [the carrier]. Because common carriers now provide most services on a non-tariffed basis, the requirement in these two rules that the carrier has filed an “applicable tariff” is no longer necessary.

Bulk Billing

Last March, the Commission Chairwoman circulated an item that would have proposed to prohibit bulk billing agreements between providers and multi-tenant environments.³¹ WISPA disagreed with an outright ban given the cost savings for tenants and the predictable revenue stream that providers obtain, but indicated that bulk billing agreements coupled with exclusive agreements can be problematic.³² If the Commission decides to entertain the bulk billing issue in the future, it should consider the positive impact bulk billing arrangements can have on consumers and providers in certain circumstances.

³¹ “*FCC Chairwoman Pushes for Lower Broadband Costs & Increased Choice in Apartment Buildings*,” <https://www.fcc.gov/document/fcc-chairwoman-lower-broadband-costs-apartment-buildings> (March 5, 2024).

³² See Letter from Louis Peraertz, WISPA Vice President of Policy, to Marlene H. Dortch, FCC Secretary, GN Docket No. 17-142 (filed April 3, 2024).

Conclusion

By taking the steps discussed above, the Commission can begin to eliminate unnecessary, burdensome and outdated rules that will encourage investment and innovation in broadband deployment and operations.

Respectfully submitted,

**WISPA –
THE ASSOCIATION FOR
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April 11, 2025

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